

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

First named inventor : Braig, James R.
App. No. : 10/826,006
Filed : April 15, 2004
Title : DUAL MEASUREMENT
ANALYTE DETECTION
SYSTEM
Examiner : Jarret, Lore Ramillano
Group Art Unit : 1792

CERTIFICATE OF EFS WEB TRANSMISSION

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10 August 2009
(Date)
Philip Nelson
Philip M. Nelson, Reg. No. 62,676

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

The above-identified application became abandoned for failure to file a response to the Office Action mailed on January 28, 2008, which set a 3-month period for response. A continuing application was filed July 10, 2008. A notice of abandonment was mailed on September 5, 2008.

Applicants hereby petition for revival of this application based on an unintentional delay, pursuant to 37 C.F.R. § 1.137 (b).

- (1) The requirement under 37 C.F.R. § 1.137(b) of filing a reply to the Office Action of January 28, 2008 was met pursuant to 37 C.F.R. § 1.137(c) by the filing of a "continuing application," viz., currently pending U.S. Patent Application No. 12/171,205 ("the Divisional"), which is a divisional of U.S. Application No. 10/826,006 ("the Parent"). The Divisional was filed on July 10, 2008.
- (2) The petition fee set forth in 37 C.F.R. § 1.17(m) of \$810 (for a small entity) is provided herewith. The present application qualifies for small entity status under 37 C.F.R. § 1.27.
- (3) The entire delay in filing the required reply from the due date for the reply (April 28, 2008) until the filing of this petition (August 10, 2009) was unintentional. In particular, Applicants intended to file the Divisional while the Parent was still pending. The Divisional was in fact filed during the extendible period for filing a response to the January 28, 2008 office action (that is, before July 29, 2008), so if extension fees had been paid in the Parent at the same time the Divisional was filed, the Applicants' intention would have been fulfilled. However, the extension fees to maintain the co-pendency of the Parent with the Divisional were not paid due to an oversight. Thus, the Parent was abandoned earlier than intended due to the unintentional non-payment of the three-month extension fees. This oversight was discovered on August 10, 2009, on the very same day this petition is being filed.

- (4) It is believed that, pursuant to 37 C.F.R. § 1.137(d)(3), a terminal disclaimer is not required in this case because revival is sought solely for purposes of copendency with the Parent, which is a utility application filed on or after June 8, 1995.

It is believed that the three-month extension fee for the delay between April 28, 2009 and the July 10, 2008 filing of the continuing application is now moot and does not need to be paid in light of the petition fee provided herewith. However, if this is incorrect and the three-month extension should be paid, please charge the appropriate amount (and any additional fees that are deemed to be required) to Deposit Account No. 11-1410. If overpayment has been made, please also credit such overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10 August 2009

By: Philip Nelson

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